

BEFORE THE
OFFICE OF ADMINISTRATIVE HEARINGS
STATE OF CALIFORNIA

In the Consolidated Matters of:

PARENT ON BEHALF OF STUDENT,

OAH CASE NO. 2014010299

v.

IRVINE UNIFIED SCHOOL DISTRICT,

IRVINE UNIFIED SCHOOL DISTRICT,

OAH CASE NO. 2013060803

v.

PARENT ON BEHALF OF STUDENT.

ORDER GRANTING STUDENT'S
MOTION TO CONSOLIDATE AND
GRANTING MOTION TO CONTINUE

On June 18, 2013, The Irvine Unified School District (District) filed with the Office of Administrative Hearings (OAH) a Request for Due Process Hearing (complaint) in OAH case number 2013060803 [First Case], naming Parent on behalf of Student (Student) as respondent. On August 16, 2013, the District filed a motion for leave to file an amended complaint. On August 22, 2013, the District's motion was granted. The amended complaint contains two issues. The District requests OAH to find that the March 2013 triennial assessment and the Spring Individualized Education Program (IEP) were appropriate.

In January 10, 2014, Student filed with OAH a Request for Due Process Hearing in OAH case number 2014010299 [Second Case], naming the District as respondent. Student contends that the District failed to provide Student a free appropriate public education (FAPE) as the District failed to provide Independent Education Evaluations, as requested by Parent, because the District's March 2013 triennial assessment was not appropriate. Student also contends that the Spring IEP fails to provide Student a FAPE due to an inappropriate assessment.

On January 10, 2013, Student filed a Motion to Consolidate the First Case with the Second Case and to continue the due process hearing date set in the First Case.

The District did not file a response to the motion.

CONSOLIDATION

Although no statute or regulation specifically provides a standard to be applied in deciding a motion to consolidate special education cases, OAH will generally consolidate matters that involve: a common question of law and/or fact; the same parties; and when consolidation of the matters furthers the interests of judicial economy by saving time or preventing inconsistent rulings. (See Gov. Code, § 11507.3, subd. (a) [administrative proceedings may be consolidated if they involve a common question of law or fact]; Code of Civ. Proc., § 1048, subd. (a) [same applies to civil cases].)

Here, the First Case and Second Case involve a common question of law or fact, specifically, whether the March triennial assessment conducted by the District was appropriate. The District does not oppose the motion. In addition, consolidation furthers the interests of judicial economy because the issues are nearly identical and involve the same evidence and witnesses. Accordingly, consolidation is granted.

CONTINUANCE

A due process hearing must be held, and a decision rendered, within 45 days of receipt of the complaint, unless a continuance is granted for good cause. (Ed. Code, §§ 56502, subd. (f) & 56505, subd. (f)(1)(C)(3).)

Student's motion to continue the hearing demonstrates good cause for a continuance.

ORDER

1. Student's Motion to Consolidate is granted.
2. All dates previously set in OAH Case Number 2013060803 [First Case] are vacated.
3. Student's Motion to Continue is granted. The consolidated cases shall proceed pursuant to the scheduling order dated January 13, 2014 issued in OAH Case Number 2014010299 [Second Case]:
 - A. The Mediation in the above-captioned case shall be held on February 13, 2014 at 9:30 a.m.;
 - B. The Prehearing Conference in the consolidated cases shall be held on February 28, 2014, at 1:00 p.m.; and
 - C. The Due Process Hearing in the consolidated cases shall be held on March 6, 2014 and March 10-11, 2014.
4. The 45-day timeline for issuance of the decision in the consolidated cases shall be based on the date of the filing of the complaint in OAH Case Number 2014010299 [Second Case].

Dated: January 21, 2014

/s/

ROBERT HELFAND
Administrative Law Judge
Office of Administrative Hearings